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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,456	11/17/2000	Egor Ciotic		6894

7590 09/11/2002

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EXAMINER

ELOSHWAY, CHARLES R

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/715,456

Applicant(s)

CIOTIC, EGOR

Examiner

Charles R. Eloshway

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-11 and 13-18 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/10/02 has been entered.

***Election/Restrictions***

2. Claims 11, and 15-18 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 3.

***Claim Rejections - 35 USC § 103***

3. Claims 1-4, 8-10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holley in view of DE '353, Wix, Ross, and Prisco.

The only substantive change to the claims is the amendment of claim 1 to recite a "hose." As such, Holley and DE '353 apply to the above-noted claims for the reasons advanced in paragraph 3 of the prior Office action (which referred to paragraph 6 of the first Office action (Paper No. 4)). With respect to the newly-added "hose" limitation, Wix, Ross, and Prisco all teach that it is well known in the toilet ventilator art to attach a "hose" to the toilet and to extend the hose to a location remote from the toilet, including the exterior of the building or interwall or subfloor spaces (Wix, col. 3, lines 31-37), crawl spaces or basements (Ross, col. 2, lines 61 et seq.), or attics/ceilings (Prisco, fig. 1). In view of these teachings, it would have been obvious to modify the DE '353 toilet ventilator to have a "hose" that extends to a remote area in order to ventilate the toilet outside of the room in which it is located.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art applied in the immediately preceding rejection to claim 3 and further in view of Agelatos et al.

See the prior Office action, paragraph 4 and the first Office action (Paper No. 4), paragraph 7.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art applied to claim 3 in paragraph 3 above, and further in view of Lee, III.

See the prior Office action at paragraph 5 and the first Office action at paragraph 8.

*Response to Arguments*

6. Applicant argues that none of the prior art teaches a hose as per claim 1 connected to a portable venting commode. Remarks filed 8/10/02, pg. 10. Wix, Ross, and Prisco clearly illustrate that it is common in the art to pipe air ventilated from a toilet to a remote location. The fact that the instant invention is directed to a "portable" toilet is of no patentable significance because Wix, Ross, and Prisco are not limited in their teachings solely to toilets that are fixed in place. The teaching derived from these references is to pipe the ventilated air from a toilet to a remote location. Moreover, the fact that DE '353 teaches an in-line air filter does not negate the teachings of Wix, Ross, and Prisco, because a filter and a "hose" are not mutually exclusive. One may desire to filter the air no matter where it is expelled. On the other hand, providing a hose eliminates the need for a filter, the purpose of which is to freshen the air when it is expelled back into the

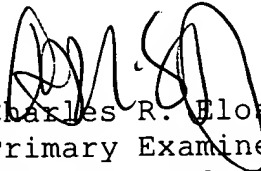
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same room in which the toilet sits. In any event, what the prior art makes abundantly clear is that the location where the ventilated air is expelled is an obvious matter of design choice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Eloshway whose telephone number is (703) 308-0104. The examiner can normally be reached on Monday-Thursday, 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.

  
Charles R. Eloshway  
Primary Examiner  
Art Unit 3751

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September 9, 2002